

REMARKS

Claims 1, 14, 18, 25 and 28 have been amended as set forth above. The amendments to the claims are a matter of form only. Thus, claims 1-30 remain for consideration in this application.

Claims 1-30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

It is the position of the Office Action that it is still unclear whether or not the seat is being claimed or the combination of the seat and the vehicle. Applicants intended to clarify their position in the Response of November 5, 2004. On page 9 of that Response Applicants stated the following:

Specifically, these claims have been amended to recite, “a seat for a vehicle having a floor and a roof,”. Thus, the claims are intended to cover a seat (or seats) of a vehicle which has a “floor and a roof.”

However, in order to make Applicants position abundantly clear, Applicants hereby state that the claims are drawn to a seat (or seats). In order to further clarify this point, Applicants have amended claims 1, 25 and 28 to include the following language suggested by the Examiner in the Office Action:

A seat adapted for use in a vehicle having a floor and a roof, comprising: ...

Accordingly, it should be now abundantly clear that the claims are drawn to a seat (or seats) and such a seat(s) is “adapted for use in a vehicle”. Such language was suggested in the Office Action on page 4, lines 6-9.

Claim 1 is also amended in order to indicate that the central pillar extends from “the floor to the roof of the vehicle”.

The Office Action also objects to the language in claim 14. The language in claim 14 is intended to mean that a seat bottom is provided for and is affixed directly to one of the lower ribs, and another seat bottom is fixed to and supported by the other of the lower ribs. Accordingly, the language in claim 14 has been amended as set forth above, in order to clarify this meaning.

Claims 1, 6-8, 10, 12, 25 and 28 are rejected under 35 U.S.C. § 102(e) as being anticipated by Lohr (USP 6,568,735).

The Office Action maintains a rejection of independent claims 1, 25 and 28, as well as the dependent claims 6-8, 10 and 12. Specifically, with regard to claim 1, the Office Action suggests that Lohr discloses a central pillar (indicated by vertical support 11), a center support (indicated by horizontal branch 7 of side piece 3), a lower rib and an intermediate rib (indicated by cross pieces 5, 5) and a seat bottom (indicated by lower portion 9) and a seat back (indicated by upper portion 8) of the seat. Applicants respectfully submit that, contrary to the rejection, Lohr does not disclose each and every feature as set forth in claim 1. Applicants’ specific comments are set forth below.

1. Lohr neither discloses nor suggest a “central pillar” as required by claim 1. The Office Action suggests that vertical support 11 is a central pillar. As noted in column 3, lines 34-43, of Lohr, Lohr is intended to be used for an urban passenger transport vehicle, such as a tram, a metro, a bus, etc. The Office Action points to no language or drawings that indicate that vertical support 11 of Lohr is a “central pillar”. In fact, if it is to be used on a bus or metro, etc., it is expected that it would not be used as a “central pillar”, since such buses and metro vehicles normally have an open center aisle, and a “central pillar” would be an obstruction for people using such a vehicle.

The Office Action states that a vertical support 11 as shown in Lohr, “could in fact be disposed in a central area of the vehicle...” Further the Office Action indicates that doing so, “is common and inherent in many mass transit vehicles.” However, “could” is not the standard under 35 U.S.C. § 102(e).

Applicants respectfully traverse this assertion in the Office Action. It is not clear whether the Office Action is taking Official Notice of such factor simply indicating that it is “common knowledge.” As noted in MPEP 2144.03, Official Notice should only be taken when “the facts asserted to be well-known or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” Applicants submit that such is not the case with the claimed “central pillar.” As stated above, Applicants submit that such a central pillar is not used in mass transit cars because of the need for access for riders. Additionally, MPEP 2144.03(A) states that it is “not appropriate to rely on “common knowledge” without evidentiary

support in the record...” There is no such evidentiary support in this record. Furthermore, MPEP 2144.04(C) states:

“If applicant adequately traverses the examiner’s assertion of Official Notice, the examiner must provide documentary evidence in the next Office Action if the rejection is to be maintained.”

This response specifically traverses the assertion of the Office Action that it is common for mass transit vehicles to have a central pillar on which seats are mounted. Applicants submit that “one of ordinary skill in the art” would not believe that vertical support 11 of Lohr would be a “central pillar”.

2. The Office Action suggests that the “lower rib” of claim 1 is shown by the lower cross piece 5 in Fig. 1 of Lohr. Claim 1 requires “a seat bottom directly fixed to and supported by said lower rib”. The lower portion 9 of the seat of Fig. 1 of Lohr is not “directly fixed to” a lower rib. In fact it is directly fixed to horizontal branches 7 of side pieces 3 and 4. Accordingly, the structure of Lohr is simply different from what is claimed. The lower portion 9 of the seat of Lohr is not directly fixed to cross piece 5, but to side pieces 3 or 4, which are not “ribs” extending laterally. Thus, lower cross piece 5 does not disclose the structure of the “seat bottom” of claim 1, which is “directly fixed to” the lower rib.

3. Furthermore, claim 1 also requires that the seat back be “fixed to and supported by said intermediate rib”. The Office Action takes the position that the upper cross piece 5 is the intermediate rib. As with the seat bottom, the upper portion 8 of the seat of Lohr is not attached

to upper cross piece 5, but is attached to the vertical branches 6, 6 of side pieces 3 and 4. Vertical branches 6, 6 of side pieces 3 and 4 are not “ribs” and do not extend “laterally” from the central pillar. In fact, Lohr refers to them as “vertical branches 6, 6” and not as lateral portions. Accordingly, the seat back is not “fixed to” the upper cross piece 5 of Lohr.

In view of the remarks above, it is clear that Lohr does not show each and every feature of claim 1. Furthermore, Applicants submit that the features that are not shown by Lohr, are not something that “one of ordinary skill in the art would gleam from the disclosure of Lohr”. Furthermore, the same argument applies with regard to independent claims 25 and 28. In addition, claims 6-8, 10 and 12 are dependent from claim 1 and limited to the additional features set forth therein. Accordingly, these claims are not anticipated by Lohr.

Applicants wish to thank the Examiner for the indication that claims 2, 3, 9, 11, 13-24, 26-27 and 29-30 contain allowable subject matter.

In view of the amendments to the claims, and the remarks set forth above, Applicants submit that the Examiner’s objections and rejection have been overcome. Accordingly, it is respectfully requested that the Examiner withdraw the objections and rejection and allow present claims 1-30.

CONCLUSION

In view of the foregoing amendments and accompanying remarks, it is submitted that all pending claims are in condition for allowance. A prompt and favorable reconsideration of the rejection and an indication of allowability of all pending claims are earnestly solicited.

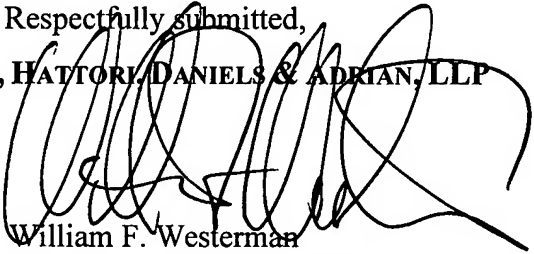
Application No. 10/035,334
Group Art Unit: 3636

Amendment under 37 C.F.R. § 1.111
Attorney Docket No.: 011715

If the Examiner believes that there are issues remaining to be resolved in this application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite and complete prosecution of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



William F. Westerman
Attorney for Applicants
Registration No. 29,988
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

WFW/dlt